IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SIXTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

AND
THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No.20561 of 2004

Between:

1. P. Rama Rao, S/o. Sita Rama Rao,
R/o. 36-4-5, Patchamatti Vari Street, Innespet,

Rajahmundry, E.G.District.
2. P. Subhadra, D/o. P. Satyanarayana, Retd.Principal,
Rajahmundry Womens College, Gandhinagar, Rajahmundry, E.G.District.
3.C. Janaki Ramaiah, S/o. Kirshnam Raju, Head Master,
Municipal High School, R/o.Prakash Nagar, Rajahmundry,
E.G.District.
4.Dr. K.V. Rayudu, S/o. K. Raja Rao,
R/o.Kankatala Street, Rajahmundry, E.G.District.
5.Dr. C.V. Subba Rao, S/o. C.K. Raju, Retd. Civil Surgeon,
R/o. Kankatala Street, Rajahmundry, E.G.District.
6. M.V. Krishnaiah, S/o. M. Krishna Murthy, Head Master,
V.T. High School, R/o.Alckot Gardens,
Post Office Street, Rajahmundry, E.G.District.

..... PETITIONERS

AND

1.Government of Andhra Pradesh,

rep. by the Special Chief Secretary to Government (FAC),
Transport, Roads & Buildings (R.1) Department, Secretariat, Hyderabad.
2.The District Collector, Kakinada, E.G.District.
3.The Chief Engineer, Roads & Buildings Department,

Panjagutta, Hyderabad,.
4.The Executive Engineer, Roads & Buildings,

Rajahmundry, E.G.District.
5.The A.P. Road Development Corporation, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to declare the action of the respondents herein in seeking to construct a Flyover from Road-cum-Rail Bridge Rajahmundry to National High Way at Hukumpeta through Dharwada Street and V.T. College Road as arbitrary, illegal, opposed to norms of pollution control, and public interest, health and safety by way of a writ, order or direction, one more particularly in the nature of Writ of Mandamus and consequently direct the respondents not to pursue the afore said project in the interests of public good and welfare.

Counsel for the Petitioner: Mr.B.VIJAYA BHASKAR

Counsel for the Respondents. G.P. FOR ROADS & BUILDINGS

The Court at the admission stage made the following :

ORAL ORDER: (per the Hon'ble the Chief Justice)

We see no public interest involved in the case like one before us where the petitioners are seeking orders of restraint on the respondents not to construct proposed flyover from road cum rail bridge, Rajahmundry to National Highway at Hukumpet, after declaring the action of the respondents in constructing the said road-cum-rail bridge, as arbitrary and illegal.

From the documents placed on record along with the representation and paper cutting, it appears that the petitioners had volunteered to raise objections giving alternative proposal also, but the same did not find favour with the authorities who are going ahead with the construction. The main grievance appears to be that such construction of the flyover would likely to cause damage to many old monuments like V.T. High School in addition to number of private buildings.

There is no manner of doubt that in such like matters where the properties of private individuals are affected, this Court will interfere, but the question whether such flyover should not be constructed cannot be a matter of judicial review unless it is shown that the action of the respondents is perverse or tainted with malice. There are no such circumstances warranting interference. We find no ground to entertain this petition.

Writ petition is dismissed.

(DEVINDER GUPTA, C.J.)

16th November 2004.

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(C.V.RAMULU, J.)

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To

1.The Special Chief Secretary to Government (FAC),Government of Andhra Pradesh, Transport, Roads & Buildings (R.1) Department, Secretariat, Hyderabad.
2.The District Collector, Kakinada, E.G.District.
3.The Chief Engineer, Roads & Buildings Department,

Panjagutta, Hyderabad,.
4.The Executive Engineer, Roads & Buildings,

Rajahmundry, E.G.District.
5.The A.P. Road Development Corporation, Hyderabad.

6.Two CCs to Govt. Pleader for Roads & Bldgs., High Court Bldgs., Hyderabad (OUT).

7.Two CD copies.